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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,909	03/10/2004	David Baran	GBTV 1001-1	1626
22470	7590	11/19/2010	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP P O BOX 366 HALF MOON BAY, CA 94019				LUONG, ALAN H
ART UNIT		PAPER NUMBER		
2427				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,909	BARAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ALAN LUONG	2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 July 2010.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5-7 and 9-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments, see Remark, filed 7/26/2010, with respect to the rejection(s) of claim(s) 1, 2, 5-6, 7, 9-11 under Hite '170 in view of Hite '974 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Plotnick.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **1, 5, 7, 9 and 11** are rejected under 35 U.S.C. 102(b) as being anticipated by **Plotnick** et al. (US Pub. 20020178447) (herein after **Plotnick**).

4. Claims **1, 5 and 9**: Fig. 3 of Plotnick illustrates a head-end based PVR (HE PVR) as **an apparatus**, also known as the Personal Video Channel (PVC), is an implementation of the PVR in which the storage function is performed outside of the subscriber residence supports **a process for allowing a viewer at a TV display to bypass undesired segments of a TV program** (Plotnick, pp0078) including:

A video server 222 for **storing on a shared personal video recorder (PVR) network server at a distribution head end [228] one or more TV programs containing a**

**first class of metadata** (i.e. the program metadata [1022] of Fig. 10) **including a start location** (i.e. pre-pended insert) **and a stop location** (i.e. post-pended insert) **of potentially undesired segments** (i.e. TV program as a playback material is inserted with an advertisements, including traditional 30 second commercials, IPG ads, pre-pended and post-pended ads, as well as various types of virtual ads (i.e., overlays, product placements, bugs); (Plotnick, pp (0079-0080, 0101-0102) and (Fig. 10, pp. 0108, Fig. 11 pp. 0114)

**retrieving one of the TV programs for display;** (i.e. A VoD system allows a subscriber to retrieve video (i.e., a movie) at any time). (Plotnick, pp. 0071)

Fig. 10 depicts a filter AD [1008] for **defining** an Ad [1002] from Ad feed [1000], **with a second class of metadata** (i.e. Ad metadata [1006], **unwanted segments specific to a user of said TV display** (i.e. the target audience specified in the ad metadata 1006 with the viewer profiles from a profile database 1046), (Plotnick, pp. (0106 and 0107)

Fig. 1 of Plotnick illustrates a STBPVR includes **a processor** [120] (Plotnick, pp. 0067) **and logic coupled to the shared personal video recorder network server** (i.e. PVR can be connected over a variety of network types as DOSSIS and can receive streaming media broadcasts (Plotnick, pp. 0069-0070) **adapted to compare** for **matching the first class of metadata** (i.e. prepared program metadata 1024) **with the second class of metadata** (i.e. the ad metadata 1006); (i.e. by comparing the target audience specified in the ad metadata 1006 with the viewer profiles from a profile

database 1046. If a match exists, the match will be used for selecting an appropriate ad.); (Plotnick, pp. 0107 and 0112)

**removing, responsive to matching the first class of metadata with the second class of metadata, undesired segments from the TV program; (i.e. ads that may be removed from a universal ad queue (UAQ) by the rules which may be rules provided by the advertisers in the development of the UAQ, general rules applied to all UAQs, rules that are based on a profile of the subscriber developed by the PVR),** (Plotnick, pp. 0040, 0130) and

Plotnick further teaches **reimbursing source content suppliers** (i.e. An ad server 716 stores and distributes all of the ads for a particular set of subscribers.) **for a financial loss occasioned by removed material, wherein the source content suppliers are distinct from an operator of the distribution head end** ((i.e. The VoD Server 1172). (i.e. Fig. 7 of Plotnick shows the traffic and billing system 712 manages the advertising campaign and controls advertising campaigns for broadcast systems, PVRs, and VoD. Based on the ad campaign 1166 a prepend/postpend ad schedule component 1168 is created. Based on the schedule 1168, ad delivery instructions 1170 are transmitted to the VoD Server 1172. The VoD Server 1172 uses the ad delivery instructions 1170 to schedule the ads for display at the beginning and end of VoD content. The traffic and billing system 712 tracks the insertion results and bills the advertiser based on the insertions and contract requirements. The sales force enters requirements for viewership ratings, frequency of viewership by the target audience, and flight information, which indicates the networks and times for displaying the ad (ad

campaign 1152). Although, the VoD service provides the recorded programming and VoD programming offer the potential that subscribers may fast forward through, or skip advertisements; If the ads are fast-forwarded or skipped the value of the ad to the advertiser is diminished (or destroyed) as the subscriber doesn't see the ad or only sees illegible portions of the ad as it is fast-forwarded; (Plotnick, pp. 0118- 0120); **by removed material** inherently will cause a loss revenue (**a financial loss**) for Advertiser; based on contract requirements satisfied during the campaign, the VoD service will refund or **reimbursing source content suppliers for a financial loss occasioned by removed material.** Reimbursement resulting from a total loss by removing the ad may also be provided in the form of a shortened version of the ad. (Plotnick, pp. 0121);

**Claims 7, 11.** (Previously presented) The apparatus as set forth in claim 5. Plotnick also teaches **adapted to record and report viewer decisions to automatically remove undesired program segments.** (i.e. STB data server 1112 generates an ad play report 1160. The ad availability information 1158 and the ad play reports 1160 are formatted 1162 to create reports/logs 1164 that are forwarded to the T&B system 712. The traffic and billing system 712 bills the advertiser based on requirements satisfied during the campaign); (Plotnick, pp. 0118).

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 2, 6 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Plotnick et al.; in view of Haberman et al. (US Pub. 2002/0013943) .

3. **Claims 2, 6 and 10:** (Previously presented) The process as set forth in claims 1, 5 and 9 respectively; Plotnick is silent with respect to “time shifting two or more programs to fill time space” resulting from removing the undesired segments from the TV program.

In an analogous art directed toward a similar problem namely improving the results from time shifting two or more programs to fill time space. Fig. 7-8 of Haberman illustrate a time gap 69 may be included between the end point 65 of one set of segments and the start point 67 of the next set of segments. This time gap 69 provides the delay necessary to allow the switch 59 to change seamlessly from one data stream 50a to another 50b. Output processing 63 may include buffering and other processing techniques for the data, for example to eliminate any gaps, or to add additional features to the data stream such as graphic overlays, Haberman, pp (0051-0058) meets the limitation of claim “time shifting two or more programs to fill time space”. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify the gap from removing the undesired segments from the TV program of Plotnick including the processing for eliminate any gaps, by add additional data stream as taught by Haberman in order to provide different selectable segments

for each slot. The multiple segments are then simultaneously broadcasted over multiple data streams to a receiver, wherein the receiver switches between the data streams to assemble the personalized message in a just-in-time fashion (Abstract)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/ALAN LUONG/  
Examiner, Art Unit 2427

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427